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1996-2005 NEW MATTERS—COMMENTARYExplanation

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¶ 23,933 NATIONAL TRANSPORTATION SAFETY BOARD AND CHEMICAL SAFETY AND HAZARD
INVESTIGATION BOARD—MEMORANDUM OF UNDERSTANDING; DECEMBER 19, 2002.

National Transportation Safety Board — Interagency agreements — Hazardous materials — Accident investigations

The chairpersons of the National Transportation Safety Board and the Chemical Safety and Hazard Investigation Board signed a Memorandum of Understanding establishing a protocol for the investigation of accidents involving the release of hazardous materials. The MOU was developed to prevent duplicate investigations or jurisdictional disputes. Under the terms of the agreement, NTSB is recognized as the lead investigative agency in transportation-related accidents involving hazardous materials, including accidents that occur during loading or unloading. CSB has responsibility for accidents involving the processing, handling, or storage of a chemical substance. The MOU outlines procedures by which the two agencies will notify each other of accidents and share information developed during investigations. The terms of the MOU are effective immediately.

Memorandum of Understanding Between The National Transportation Safety Board And The Chemical Safety and Hazard Investigation Board.

National Transportation Safety Board and Chemical Safety and Hazard Investigation Board—Memorandum of Understanding; December 19, 2002.

¶ 23,933.

The purpose of this Memorandum of Understanding (MOU) between the National Transportation Safety Board (NTSB) and the United States Chemical Safety and Hazard Investigation Board (CSB) is to establish a basis of understanding regarding investigations, recognizing the primacy of the NTSB authority in transportation-related accidents involving hazardous materials and the responsibilities of the CSB to investigate accidents involving the processing, handling, or storage of a chemical substance that results in a death, serious injury, or substantial property damage. This MOU is designed to prevent duplicative investigations and disputes over jurisdiction, while preserving the mandate of each agency and its responsibility to investigate accidents.

Both the NTSB and the CSB recognize that they share significant common interests in protecting the American public from the dangers and losses associated with accidents involving the release of hazardous chemicals. This MOU provides an opportunity for both organizations to facilitate the achievement of common prevention goals. This MOU also satisfies the requirement in section 112(r)(6) of the Clean Air Act, [42 U.S.C. § 7412](#), requiring the CSB and the NTSB to enter into a formal Agreement establishing policy and general procedures for cooperation and coordination between the two agencies to avoid unnecessary duplication of activities.

Section 112(r)(6)(E) of the Clean Air Act, [42 U.S.C. § 7412](#) specifies that the NTSB is designated the lead Federal agency for the investigation of chemical releases that are transportation related. The CSB's focus, in turn, is on large chemical accidents involving the production, processing, handling, and storage of chemicals at fixed facilities. Although not specifically prohibited by this language in the Clean Air Act from conducting separate or joint investigations of transportation-related chemical accidents, given the lead authority of the NTSB and its expertise, the CSB finds that at this time in its development, such joint or separate investigations would not represent the most efficient and proper use of limited funds. Accordingly, in the event of a transportation-related chemical accident under the jurisdiction of the NTSB, the CSB will defer to the NTSB and will not conduct a separate or joint investigation. In the event that the NTSB requests technical investigative assistance from the CSB, such matters will be handled as put forth more fully in the Appendix of this MOU.

A. Accidents Involving Hazardous Materials

The NTSB is an independent agency and the lead Federal investigative agency for all transportation accidents involving hazardous materials including: aviation, railroad, marine, highway, and pipeline. This includes (a) accidents that occur during the loading or unloading of hazardous materials into or from containers that are intended to be offered for transport, or that have been delivered for off loading, and (b) accidents that occur during the temporary storage of hazardous materials in transportation containers, prior to or after transport. The NTSB may decline to investigate a transportation-related accident.

The CSB is an independent investigative agency authorized under section 112(r)(6) of the Clean Air Act, [42 U.S.C. § 7412](#). Its mission is to enhance the safety of workers and the public by uncovering the underlying causes of accidental chemical releases at fixed facilities and motivating remedial action by both the private and public sectors.

B. Transportation-Related Chemical Accident Investigations

- 1) As the lead Federal agency, the NTSB will assume control of on-scene investigation activities of transportation-related chemical accidents that it decides to investigate. The CSB may participate in an investigation conducted by the NTSB in accordance with Title 49 CFR Part 831.
- 2) During the on-scene phase of a NTSB investigation, any requests for information from parties to the investigation must be made through the NTSB authorized Investigator-In-Charge.
- 3) The NTSB will be responsible for the public release of factual information resulting from such investigation efforts. The timing and the content of information to be released during the field investigation, particularly at the accident scene, shall be limited to factual information, and shall be coordinated through the NTSB Member present at the accident scene, the representative of the NTSB's Office of Public Affairs, or the NTSB's Investigator-In-Charge.
- 4) After completion of the on-scene and field phases of the investigation, the NTSB will be solely responsible for the analysis of the factual information gathered.

C. Sharing and Coordination of Reports and Information

In order to more efficiently carry out their respective missions, either the NTSB or the CSB may request from the other agency any completed Accident Reports, Special Investigation Reports, or Safety Studies that have been produced as the result of an investigation. Completed reports will be supplied to the requesting agency as expeditiously as possible.

D. Resource Sharing

In order to conserve public resources and gain efficiencies in the process and conduct of investigations, the NTSB and the CSB will share resources wherever possible and feasible.

- 1) The NTSB and the CSB will notify each other of relevant accident investigation courses and training that they are conducting. Wherever possible and practical, fees charged for such courses and training will be waived, and space, as available, will be provided to the other agency. Each agency will be individually responsible for providing transportation and lodging, if applicable, for its investigators and staff to and from this training.
- 2) In a transportation-related accident investigation for which the NTSB has requested and obtained the use of Federal Aviation Administration aircraft, and has requested the use of CSB technical expertise, the CSB will also be provided access to this aircraft for transportation to the accident site, on a space available basis.
- 3) The CSB and the NTSB will explore developing programs for the exchange of technical personnel (details) to enhance the investigative and report writing expertise of each agency, as well as the exchange of data relating to chemical accidents.

E. Notifications

A standardized protocol for notifications of accidents and communication of information relating to transportation-related chemical accidents will be attached to this MOU as an appendix. It will contain emergency contacts and phone numbers for accident notification for both agencies, information about the accident that needs to be transmitted, and criteria for notification.

Close continuing liaison, communication, and cooperation between the two agencies will be maintained so that the common objectives of enhanced public safety, thorough and complete investigation, and the efficient use of resources can be achieved. Additionally, in this way, differences in objectives can be minimized and rapidly resolved.

Upon approval of this agreement both agencies will officially notify the appropriate OMB, Congressional, and potentially affected private sector organizations of this agreement. This agreement may be modified at any time upon mutual agreement of both agencies.

/s/

Carol J. Carmody, Acting Chairman

National Transportation Safety Board

12/19/02

/s/

Carolyn W. Merritt, Chair

Chemical Safety and Hazard Investigation Board

12-19-02

APPENDIX: Accident Notification Contacts and Criteria

Chemical Safety Board

The CSB will notify the NTSB as soon as possible of its intent to initiate an onsite investigation of a chemical accident at a fixed facility. Moreover, in the event that the accident also involves in any manner the transportation and release of hazardous

chemicals, the CSB will immediately notify the NTSB about the accident. Prior to sending an investigative team, the CSB will coordinate all jurisdictional issues with the NTSB. Initial notification will be to the NTSB Communications Center, at the address and telephone/fax number below.

National Transportation Safety Board
Communications Center
On Duty Personnel
202-314-6290 (24 hours)
490 L'Enfant Plaza East, S.W.
Washington, DC 20594-2000

B) National Transportation Safety Board

The NTSB will notify the CSB as soon as possible its intent to initiate an on-site investigation of a transportation accident involving the release of hazardous chemicals that also involves substantial damage to a fixed facility and/or significant injuries. Initial notification will be to the CSB at the address and telephone/fax number below.

In the event CSB personnel are requested by the NTSB to assist in the investigation of an accident involving the transportation and release of hazardous chemicals, the CSB will act on this request expeditiously. To the extent permissible given its stated mission, the CSB will make its personnel available to the NTSB for such investigative purposes.

Chemical Safety and Hazard Investigation Board
Business Hours 8:30—5:00 (Monday—Friday)
CSB Operations Center
(202) 261-7600
Non-Business Hours
National Response Center
(800) 424-8802

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